

ASSEMBLY BILL

No. 1850

Introduced by Assembly Member Galgiani

February 12, 2010

An act to amend Sections 290.012, 290.014, 290.015, 1202.8, and 3000.07 of, and to add Section 290.09 to, the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1850, as introduced, Galgiani. Sex offenders: registration of Internet accounts and identifiers.

(1) Existing law, the Sex Offender Registration Act, requires persons who have been convicted of specified sex offenses to register with local law enforcement. Existing law requires that the registration include the person's address, fingerprints, current photograph, and license plate number. Existing law requires the registrant to update his or her registration annually, upon moving, or upon changing his or her name. Under existing law, failure to register is a crime.

This bill would require a person required to register under the act to register his or her Internet accounts and Internet identifiers, defined to include electronic mail addresses and designations used for the purposes of chatting, instant messaging, social networking, or other similar Internet communication. The bill would also require the person to update this information within 5 days of establishing an Internet account or creating or using an Internet identifier not previously disclosed, and would require that information to be forwarded by local law enforcement agencies to the Department of Justice. By expanding the scope of a crime and by increasing the duties of local agencies, the bill would impose a state-mandated local program.

This bill would also require the Department of Justice to release information regarding the relevant Internet accounts and identifiers to entities that provide social networking services on the Internet in order to allow the entities to prescreen or remove from their services persons required to register pursuant to the act.

(2) Existing law provides for the granting of probation or parole to specified offenders under specified circumstances.

This bill would require, as conditions of probation or parole, that a person required to register as a sex offender, who has either been determined to have a high risk of offending pursuant to the State Authorized Risk Assessment Tool for Sex Offenders, or whose victim was under 18 years of age at the time of the offense, be prohibited from using the Internet to access pornographic material, to access social networking sites, to communicate with other individuals or groups for the purpose of promoting sexual relations with persons under 18 years of age, or to communicate with persons under 18 years of age, except as provided.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290.012 of the Penal Code is amended
2 to read:
3 290.012. (a) Beginning on his or her first birthday following
4 registration or change of address, the person shall be required to
5 register annually, within five working days of his or her birthday,
6 to update his or her registration with the entities described in
7 subdivision (b) of Section 290. At the annual update, the person
8 shall provide current information as required on the Department
9 of Justice annual update form, including the information described

1 in paragraphs (1) to ~~(3)~~ (5), inclusive of subdivision (a) of Section
2 290.015. The registering agency shall give the registrant a copy
3 of the registration requirements from the Department of Justice
4 form.

5 (b) In addition, every person who has ever been adjudicated a
6 sexually violent predator, as defined in Section 6600 of the Welfare
7 and Institutions Code, shall, after his or her release from custody,
8 verify his or her address no less than once every 90 days and place
9 of employment, including the name and address of the employer,
10 in a manner established by the Department of Justice. Every person
11 who, as a sexually violent predator, is required to verify his or her
12 registration every 90 days, shall be notified wherever he or she
13 next registers of his or her increased registration obligations. This
14 notice shall be provided in writing by the registering agency or
15 agencies. Failure to receive this notice shall be a defense to the
16 penalties prescribed in subdivision (f) of Section 290.018.

17 (c) In addition, every person subject to the Act, while living as
18 a transient in California shall update his or her registration at least
19 every 30 days, in accordance with Section 290.011.

20 (d) No entity shall require a person to pay a fee to register or
21 update his or her registration pursuant to this section. The
22 registering agency shall submit registrations, including annual
23 updates or changes of address, directly into the Department of
24 Justice Violent Crime Information Network (VCIN).

25 SEC. 2. Section 290.014 of the Penal Code is amended to read:

26 290.014. ~~If any—(a) Any person who is required to register~~
27 ~~pursuant to the Act changes his or her name, the person shall~~
28 ~~inform, in person, the law enforcement agency or agencies with~~
29 ~~which he or she is currently registered within five working~~
30 ~~days. The if any of the following occur:~~

31 (1) *The person changes his or her name.*

32 (2) *The person establishes an Internet account with an Internet*
33 *service provider as described in paragraph (4) of subdivision (a)*
34 *of Section 290.015.*

35 (3) *The person creates or uses an Internet identifier not*
36 *previously disclosed pursuant to paragraph (5) of subdivision (a)*
37 *of Section 290.015.*

38 (b) *The law enforcement agency or agencies shall forward a*
39 *copy of this information to the Department of Justice within three*
40 *working days of its receipt.*

1 SEC. 3. Section 290.015 of the Penal Code is amended to read:

2 290.015. (a) A person who is subject to the Act shall register,
3 or reregister if the person has previously registered, upon release
4 from incarceration, placement, commitment, or release on probation
5 pursuant to subdivision (b) of Section 290. This section shall not
6 apply to a person who is incarcerated for less than 30 days if he
7 or she has registered as required by the Act, he or she returns after
8 incarceration to the last registered address, and the annual update
9 of registration that is required to occur within five working days
10 of his or her birthday, pursuant to subdivision (a) of Section
11 290.012, did not fall within that incarceration period. The
12 registration shall consist of all of the following:

13 (1) A statement in writing signed by the person, giving
14 information as shall be required by the Department of Justice and
15 giving the name and address of the person's employer, and the
16 address of the person's place of employment if that is different
17 from the employer's main address.

18 (2) The fingerprints and a current photograph of the person
19 taken by the registering official.

20 (3) The license plate number of any vehicle owned by, regularly
21 driven by, or registered in the name of the person.

22 (4) *Any Internet accounts with Internet service providers*
23 *belonging to the person. For the purposes of this section, "Internet*
24 *service provider" means an entity, to the extent that the entity is*
25 *transmitting, routing, or providing connections for Internet*
26 *communications initiated by or at the direction of another person,*
27 *between or among points specified by a user, of material placed*
28 *online by a user, storing or hosting that material at the direction*
29 *of a user, or referring or linking users to that material.*

30 (5) *Any Internet identifiers that the person uses. For purposes*
31 *of this section, "Internet identifiers" means electronic mail*
32 *addresses and designations used for the purposes of chatting,*
33 *instant messaging, social networking, or other similar Internet*
34 *communication.*

35 ~~(4)–~~

36 (6) Notice to the person that, in addition to the requirements of
37 the Act, he or she may have a duty to register in any other state
38 where he or she may relocate.

39 ~~(5)–~~

(7) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the date he or she is allowed to register.

(b) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and *any Internet accounts, Internet identifiers, and vehicle license plate number, if any, numbers* to the Department of Justice.

SEC. 4. Section 290.09 is added to the Penal Code, to read:

290.09. (a) The Department of Justice shall, upon the request of an entity providing or offering a service on the Internet that permits persons under 18 years of age to access, meet, congregate, or communicate with other users for the purpose of social networking, release to the entity information required to be disclosed pursuant to paragraphs (4) and (5) of subdivision (a) of Section 290.015 to the extent necessary to enable the entity to prescreen or remove from its services persons required to register pursuant to Section 290.

(b) The department may require the requesting entity to submit to the department the name, address, and telephone number of the entity and the specific legal nature and corporate status of the entity. Use or disclosure of the information provided pursuant to this section is prohibited for any purpose except as authorized by this section. The department may establish a fee for requests, including all actual and reasonable costs associated with the service.

SEC. 5. Section 1202.8 of the Penal Code is amended to read:

1 1202.8. (a) Persons placed on probation by a court shall be
2 under the supervision of the county probation officer who shall
3 determine both the level and type of supervision consistent with
4 the court-ordered conditions of probation.

5 (b) Commencing January 1, 2009, every person who has been
6 assessed with the State Authorized Risk Assessment Tool for Sex
7 Offenders (SARATSO) pursuant to Sections 290.04 to 290.06,
8 inclusive, and who has a SARATSO risk level of high shall be
9 continuously electronically monitored while on probation, unless
10 the court determines that such monitoring is unnecessary for a
11 particular person. The monitoring device used for these purposes
12 shall be identified as one that employs the latest available proven
13 effective monitoring technology. Nothing in this section prohibits
14 probation authorities from using electronic monitoring technology
15 pursuant to any other provision of law.

16 (c) (1) *Commencing January 1, 2010, when imposing a sentence*
17 *of probation or conditional sentence upon a person who has been*
18 *convicted of an offense that requires him or her to register as a*
19 *sex offender pursuant to Section 290, and either the victim of the*
20 *offense was under 18 years of age at the time of the offense, or the*
21 *person has been deemed to pose a high risk to the public of*
22 *committing sex crimes, as determined by the SARATSO pursuant*
23 *to Sections 290.04 to 290.06, inclusive, the court shall require as*
24 *a condition of probation that the person be prohibited from using*
25 *the Internet to do any of the following:*

26 (A) *To access pornographic material.*

27 (B) *To access a social networking Internet Web site.*

28 (C) *To communicate with other individuals or groups for the*
29 *purpose of promoting sexual relations with minors.*

30 (D) *To communicate with a minor when the person convicted*
31 *of the sex offense is an adult, provided the court may, in its*
32 *discretion, permit the convicted person to use the Internet to*
33 *communicate with a minor if the convicted person is the parent of*
34 *the minor and is not otherwise prohibited from communicating*
35 *with the minor.*

36 (2) *As used in this subdivision, “social networking Internet Web*
37 *site” means an Internet Web site providing or offering a service*
38 *on the Internet that permits minors to access, meet, congregate,*
39 *or communicate with other users for the purpose of social*
40 *networking.*

1 (3) *For purposes of this section, a “minor” is a person under*
2 *18 years of age and an “adult” is a person 18 years of age or over.*

3 ~~(e)~~

4 (d) Within 30 days of a court making an order to provide
5 restitution to a victim or to the Restitution Fund, the probation
6 officer shall establish an account into which any restitution
7 payments that are not deposited into the Restitution Fund shall be
8 deposited.

9 ~~(d)~~

10 (e) Beginning January 1, 2009, and every two years thereafter,
11 each probation department shall report to the Corrections Standard
12 Authority all relevant statistics and relevant information regarding
13 on the effectiveness of continuous electronic monitoring of
14 offenders pursuant to subdivision (b). The report shall include the
15 costs of monitoring and the recidivism rates of those persons who
16 have been monitored. The Corrections Standard Authority shall
17 compile the reports and submit a single report to the Legislature
18 and the Governor every two years through 2017.

19 SEC. 6. Section 3000.07 of the Penal Code is amended to read:

20 3000.07. (a) Every inmate who has been convicted for any
21 felony violation of a “registerable sex offense” described in
22 subdivision (c) of Section 290 or any attempt to commit any of
23 the above-mentioned offenses and who is committed to prison and
24 released on parole pursuant to Section 3000 or 3000.1 shall be
25 monitored by a global positioning system for the term of his or
26 her parole, or for the duration or any remaining part thereof,
27 whichever period of time is less.

28 (b) Any inmate released on parole pursuant to this section shall
29 be required to pay for the costs associated with the monitoring by
30 a global positioning system. However, the Department of
31 Corrections and Rehabilitation shall waive any or all of that
32 payment upon a finding of an inability to pay. The department
33 shall consider any remaining amounts the inmate has been ordered
34 to pay in fines, assessments and restitution fines, fees, and orders,
35 and shall give priority to the payment of those items before
36 requiring that the inmate pay for the global positioning monitoring.
37 No inmate shall be denied parole on the basis of his or her inability
38 to pay for those monitoring costs.

39 (c) (1) *If an inmate released on parole pursuant to this section*
40 *has been deemed to pose a high risk to the public of committing*

1 *sex crimes, as determined by the State Authorized Risk Assessment*
2 *Tool for Sex Offenders (SARATSO) pursuant to Sections 290.04*
3 *to 290.06, inclusive, or if the victim of the inmate's offense was*
4 *under 18 years of age at the time of the offense, the parole authority*
5 *shall impose a condition of parole that prohibits the person from*
6 *using the Internet to do any of the following:*

7 (A) *To access pornographic material.*

8 (B) *To access a social networking Internet Web site.*

9 (C) *To communicate with other individuals or groups for the*
10 *purpose of promoting sexual relations with minors.*

11 (D) *To communicate with a minor when the parolee is an adult,*
12 *provided the parole authority may, in its discretion, permit the*
13 *convicted person to use the Internet to communicate with a minor*
14 *if the parolee is the parent of the minor and is not otherwise*
15 *prohibited from communicating with the minor.*

16 (2) *As used in this subdivision, "social networking Internet Web*
17 *site" means an Internet Web site providing or offering a service*
18 *on the Internet that permits minors to access, meet, congregate,*
19 *or communicate with other users for the purpose of social*
20 *networking.*

21 (3) *For purposes of this section, a "minor" is a person under*
22 *18 years of age and an "adult" is a person 18 years of age or over.*

23 SEC. 7. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution for certain
25 costs that may be incurred by a local agency or school district
26 because, in that regard, this act creates a new crime or infraction,
27 eliminates a crime or infraction, or changes the penalty for a crime
28 or infraction, within the meaning of Section 17556 of the
29 Government Code, or changes the definition of a crime within the
30 meaning of Section 6 of Article XIII B of the California
31 Constitution.

32 However, if the Commission on State Mandates determines that
33 this act contains other costs mandated by the state, reimbursement
34 to local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.